

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

KEVIN JEMERSON,

Petitioner,

v.

CIVIL ACTION NO. 2:05-cv-00300
(Criminal No. 2:01-cr-00060-13)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is the petitioner's motion under 18 U.S.C. § 3582(c)(2) for modification of sentence [Docket 712]. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court: 1) find that the petitioner does not meet the criteria under 18 U.S.C. § 3582(c) for modification of sentence; 2) deny the petitioner's motion for modification of sentence; and 3) deny the petitioner's motion to expedite decision.


Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge. The court **FINDS** that the petitioner does not meet the criteria under 18 U.S.C. § 3582(c) for modification of sentence. Accordingly, the court **DENIES** the petitioner's

motion for modification of sentence [Docket 712], and **DENIES** the petitioner's motion to expedite decision [Docket 721].

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: October 3, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE